

**635.100 Effect of escape, absence without leave, or violation of conditions of placement -- Administrative hearings and regulations.**

- (1) Any child committed to or in the custody of the Department of Juvenile Justice who escapes or is absent without leave from his or her placement shall be taken into custody and returned to the custody of the Department of Juvenile Justice by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.
- (2) Any child committed to the Department of Juvenile Justice who is placed on supervised placement by the Department of Juvenile Justice and who violates the terms or conditions of supervised placement may be returned to active custody of the Department of Juvenile Justice and shall be taken into custody by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.
- (3) A child taken into custody may be held in a Department of Juvenile Justice facility, program, or contract facility, prior to the administrative hearing, provided a preliminary hearing is held by a person designated by the Department of Juvenile Justice within five (5) days, exclusive of weekends and holidays, of the holding, unless the child or his representative request or agree to a longer period of time, to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (5) of this section. The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be represented by counsel at the preliminary hearing.
- (4) A child taken into custody as provided in subsection (1) of this section shall be returned to the active custody of the Department of Juvenile Justice within three (3) days, exclusive of weekends and holidays, and no administrative hearing shall be required.
- (5) If the child is returned to the active custody of the Department of Juvenile Justice as provided in subsection (3) of this section an administrative hearing shall be held within ten (10) days, exclusive of weekends and holidays, of the preliminary hearing unless the child and his representative request or agree to a longer period of time. The hearing shall be held by one (1) hearing officer designated by the Department of Juvenile Justice to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel.
- (6) The department shall have the power to administer oaths and to issue subpoenas compelling the attendance of witnesses as it may deem necessary to the case of any child before it. Disobedience of a subpoena may be punished as contempt of court, after a hearing before the committing juvenile court.
- (7) Administrative hearings conducted under this section and administrative regulations promulgated under this section shall be exempt from the requirements of KRS Chapter 13B.

- (8) The Department of Juvenile Justice shall promulgate administrative regulations to govern at least the following aspects of this section:
- (a) Commissioner's warrant;
  - (b) Procedural aspects of the hearing;
  - (c) Burden of proof;
  - (d) Standard of proof; and
  - (e) Administrative appeal process.

**Effective:** July 13, 2004

**History:** Amended 2004 Ky. Acts ch. 160, sec. 6, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 263, sec. 6, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 534, sec. 15, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 538, sec. 11, effective April 13, 1998. -- Amended 1996 Ky. Acts ch. 358, sec. 47, effective July 1, 1997. -- Amended 1988 Ky. Acts ch. 350, sec. 103, effective April 10, 1988. -- Created 1986 Ky. Acts ch. 423, sec. 133, effective July 1, 1987.